

Remarks

Claim Rejections - 35 USC § 102(e)

- (1) Claims 13-19, 24, 27, 29, 33, 34, 36-39, 41, 43, and 44 stand rejected under 35 U.S.C. 102(e) as the claims are said being unpatentable over Ragheb et al (US Pub. No. 2004/0047909).

In the present office action, the Examiner has rejected claims 13-19, 24, 27, 29, 33, 34, 36-39, 41, 43, and 44 as being anticipated by Ragheb et al. (U.S. Pub No. 2004/0047909). The Examiner has cited a recent US publication by Ragheb et al.¹ This application is based off prior applications, including continuations-in-part:

- US2004/004/0047909, filed Apr. 13, 2003, is a continuation of application No.
- 10/223,415, filed Aug 19, 2002, which is a **continuation-in-part** of application No.
- 09/027,054, filed on Feb. 20, 1998, and which is a **continuation-in-part** of application No.
- 08/645,646, filed on May 16, 1996, now Pat. No. 6,096,070, which is a **continuation-in-part** of application No.
- 08/484,532, filed on Jun 7, 1995, not Patent No. 5,609,629.

Applicants' application claims priority to Appln No: 90/063,227 filed 04/20/1998. As such, the content of US2004/0047909 is not totally effective against the present application given that the Ragheb application No. 10/224,415 is a continuation-in-part of 09/027,054 filed on February 20, 1998. A United States patent application under 35 USC § 102(e) is a reference as of its filing date for all it discloses; However, it is not a reference for all it discloses after the filing date. Applicants have compared the Ragheb et al. publication to that of its parent issued patent US 5,606,629, and note significant differences. They have ordered a copy of the unpublished file wrapper to US 09/027,054 filed on February 20, 1998, but do not have it at present.

Applicants suggest, that if still proper, the Examiner reform the present rejection in view of to US 09/027,054, under 35 USC § 102(e) but, respectfully request the present rejection to

¹ The Examiner indicates that the changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply when the reference is a U.S. Patent resulting directly or indirectly from an international application filed before November 29, 200.

US 2004/0047909 be removed.

(2) Claims 13-19, 24, 27, 29, 33, 34, 36-39, 41, 43, and 44 stand rejected under 35 U.S.C. 102(e) as the claims are said being unpatentable over Ragheb et al (US Pub No. 2003/0036794)

In the present office action, the Examiner has rejected claims 13-19, 24, 27, 29, 33, 34, 36-39, 41, 43, and 44 as being anticipated by Ragheb et al. (U.S. Pub No. 2003/0036794).

The historical lineage of the Ragheb et al. (US. Pub. No 2003/0036794) is again relevant. Again, this application is based off prior applications, including continuations-in-part:

- US2003/004/0036794, is based on application 10/223,415, filed Aug 19, 2002, which is a **continuation-in-part** of application
- 09/027,054, filed on Feb. 20, 1998, and which is a **continuation-in-part** of application no.
- 08/645,646, filed on May 16, 1996, now Pat. No. 6,096,070, which is a **continuation-in-part** of application No.
- 08/484,532, filed on Jun 7, 1995, not Patent No. 5,609,629.

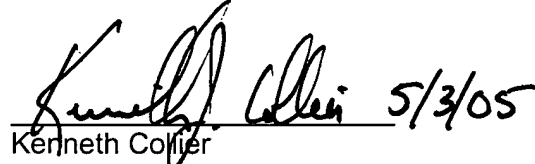
Applicants' application claims priority to Application No: 90/063,227 filed 04/20/1998. As such the content of US2003/004/0036794 is not totally effective against the present application given that the Ragheb application No. 10/224,415 is a continuation-in-part of 09/027,054 filed on February 20, 1998. A United States patent application under 35 USC § 102(e) is a reference as of its filing date for all it discloses; However, it is not a reference for all it discloses after the filing date. Applicants have compared the Ragheb et al. publication to that of its parent issued patent US 5,606,629, and note significant differences. The have ordered a copy of the unpublished file wrapper to US 09/027,054 filed on February 20, 1998, but do not have it at present.

Applicants again suggest that if still proper, the Examiner reform the present rejection in view of to US 09/027,054, under 35 USC § 102(e), but, respectfully request the present rejection to US 2003/0036794 be removed.

Summary

In view of the foregoing, it is submitted that should application no 09/027,054 not be an adequate reference, this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

Respectfully submitted,

 5/3/05

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